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- Petitioner/s

1. The State of Bihar

Appearance :

For the Opposite Party/s : Mr. Dilip Kumar(App)

3 14-10-2015 Learned counsel for the petitioners is permitted to
make correction in paragraph-1 of the bail petition.

Heard the learned counsel for the petitioners as well
as the learned A.P.P.

The petitioners seek bail in a case for the offences punishable under sections 302 and 120 (B)/34 of the I.P.C and section 27 of the Arms Act.

The deceased, brother of the informant, namely, Mithilesh Mandal was returning to his house after purchasing bamboo on the motorcycle and as soon as reached near Ghor Bathna Itmadi at guide embankment in front of field of Noori Mian the petitioners and other F.I.R. named accused persons

stopped him and shot him causing his death. It is also alleged that earlier the accused persons have committed murder of two brothers of the informant under the conspiracy of accused Lukho Sharma.

Submission is of false implication due to previous enmity and suspicion. The informant is not an eye witness and in his further statement the informant has stated that the deceased was coming with one Prakash Ram on the motorcycle and in presence of Prakash Ram the occurrence took place and that Prakash Ram in paragraph 13 of the case diary has stated that two persons involved in the crime who have covered their faces and he did not identify any one. The petitioners are suffering in custody since 27.04.2015. They have got criminal antecedents but in most of the cases they have been acquitted. Charge sheet has already been submitted and there is no chance of tampering with the prosecution evidence. The confessional statement made before police has got no evidentiary value in the eye of law and as such the petitioners deserve sympathetic consideration.

The learned A.P.P. opposes prayer for bail by submitting that the informant and the witness Anil Mandal in paragraph-10 of the case diary have stated the names of the petitioners and others, but it is true that they are not the eye

witnesses and the eye witness of the occurrence has not identified any of the culprits.

In the facts and circumstances as stated above, the petitioners are directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of A.K. Gond, J.M. Khagaria in Beldaur P.S. Case No. 83 of 2015/ G.R. No. 1012 of 2015, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioners shall remain present on each and every date during trial and the default on two consecutive dates on their part without any reason shall disentitle the petitioners from privilege of bail.

(Jitendra Mohan Sharma, J)

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